

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

DAVID CONKLIN, #1732987

§

VS.

§

CIVIL ACTION NO. 6:11cv450

DIRECTOR TDCJ-CID, ET AL.

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Plaintiff has filed a “Calendar Motion, Motion to Continue, Motion to Advance” (docket entry #60) and a “Motion for Copies of the Docket, and Cases Cited in [Report and Recommendation]” (docket entry #61), which the Court construes as objections.

Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff’s objections are without merit. Specifically, the Magistrate Judge found that despite Plaintiff’s lengthy and repetitive pleadings, he had not pleaded an actual injury; had identified a number of Defendants who he improperly sued under the doctrine of *respondeat superior*, which does not lie in a lawsuit pursuant to 42 U.S.C. § 1983; and, most significantly, had failed to exhaust his administrative remedies. Despite Plaintiff’s “Motion to Continue,” in which he spends 15 pages restating his basic complaint, he fails to address the issues raised in the Report and Recommendation. In his

companion “Motion for Copies of Cases,” he requests that the Court furnish him with copies of the “some 30 cases cited” in the Report and Recommendation. He has seen many of these cases before and, in fact, has cited a number of them himself. In any event, he has not formulated any substantive objection to the recommendations of the Magistrate Judge nor has he requested an extension of time in which to prepare any objections. His two motions, construed as objections, are therefore without merit. The Court hereby adopts the findings and recommendations of the Magistrate Judge. It is therefore

**ORDERED** that Plaintiff’s objections are **OVERRULED**. It is further

**ORDERED** that the complaint is **DISMISSED** with **PREJUDICE** as frivolous and for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1). All motions by either party not previously ruled on, including but not limited to the motions at docket entries #60 and 61, are hereby **DENIED**. The Clerk shall provide a copy of this Order to the Three Strikes Coordinator for the Eastern District of Texas.

**It is SO ORDERED.**

**SIGNED this 21st day of August, 2012.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE